

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

DANIEL TORRES,

Case No. 13-cv-11258

Plaintiff,

Honorable Marianne O. Battani
Hon. Mag. R. Steven Whalen

v.

WYETH LLC, ET AL.

Defendants.

ORDER OF DISMISSAL

This cause is before the Court on the submission of Defendants Baxter Healthcare Corp., Watson Laboratories, Inc., Actavis Elizabeth LLC, Individually and as Successor to PurePac Pharmaceutical Co.'s (collectively "Generic Defendants") Motion to Dismiss Pursuant to Fed. R. Civ. P. 41(b) for Failure to Comply with the Court's April 9, 2013 Order ("Motion to Dismiss") [Dkt. Entry No. 13] and Defendants Wyeth LLC, Wyeth Pharmaceuticals Inc., Pfizer Inc., Schwarz Pharma, Inc. n/k/a UCB, Inc., and Alaven Pharmaceutical LLC's (collectively "Brand Defendants") Joinder in the Generic Defendants' Motion to Dismiss [Dkt. Entry No. 15].

On April 9, 2013, this Court entered an Order granting the motion to withdraw as counsel filed by Plaintiff's counsel [Dkt. Entry No. 7]. Plaintiff was ordered to, "within sixty (30) days [sic]," have new counsel enter an appearance on behalf of Plaintiff or advise the Court that he would be proceeding *pro se*. The Order specifically warned that Plaintiff's failure to comply with the Order would result in the dismissal of the case.

Plaintiff's deadline to respond to the Order was June 10, 2013¹, but Plaintiff has not responded to the Order.

On June 12, 2013, the Generic Defendants filed a Motion to Dismiss Pursuant to Fed. R. Civ. P. 41(b) for Failure to Comply with the Court's April 9, 2013 Order [Dkt. Entry No. 13], and on June 17, 2013, the Brand Defendants joined in the Generic Defendants' Motion to Dismiss [Dkt. Entry No. 15]. On June 18, 2013, the Court entered a Notice of Determination of Motion Without Oral Argument pursuant to E.D. Mich. L.R. 7.1(f)(2) [Dkt. Entry No. 16]. The Court ordered Plaintiff to file a response by July 18, 2013, but Plaintiff has not responded to the Defendants' Motion to Dismiss.²

In light of Plaintiff's failure to respond to the Court's Order dated April 9, 2013 and Plaintiff's failure to respond to Defendants' Motion to Dismiss as required by the Court's Notice dated June 18, 2013, per Fed. R. Civ. P. 41(b) and E.D. Mich. L.R. 41.2, this action is hereby dismissed with prejudice for failure to prosecute.

SO ORDERED, this the 1st day of August, 2013.

Dated: August 1, 2013

S/Marianne O. Battani
Marianne O. Battani
United States District Judge

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, August 1, 2013, by electronic and/or ordinary mail.

s/Holly Monda in the absence of Bernadette Thebolt
Case Manager

¹ The actual sixty-day deadline was June 9, 2013, but June 9th fell on a Sunday. Accordingly, the deadline was carried over until Monday, June 10, 2013.

² The Court also ordered the Defendants to file their reply by August 15, 2013, but that deadline is moot in light of Plaintiff's failure to file a response to Defendants' Motion to Dismiss.